

HON. BARBARA J. ROTHSTEIN

TRIAL DATE:

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

BARBARA TOMASZEWSKI, A SINGLE
PERSON,

PLAINTIFFS,

v.

DOLLAR TREE STORES, INC., A FOREIGN
CORPORATION DOING BUSINESS IN KING
COUNTY, WASHINGTON; SBI BURIEN,
LLC., A WASHINGTON LIMITED
LIABILITY CORPORATION.

DEFENDANT.

No: 2:22-cv-01710 BJR

AMENDED COMPLAINT FOR
PERSONAL INJURIES AND
DAMAGES

NOW COMES the plaintiff, Barbara Tomaszewski, through her attorney of
record, John P. Walsh, who appears before the Court complaining against the defendant:

I. JURISDICTION & VENUE

1.1 The Superior Court of the State of Washington in and for the County of King is the appropriate venue for this action. All acts and omissions complained of occurred in Burien, King County, Washington in the parking lot of the Dollar Tree store at 250 SW 152nd St.

1.2 This cause of action arose because of an injury sustained at the Dollar Tree establishment in Burien, King County, Washington.

II. PARTIES

2.1 Plaintiffs Barbara Tomaszewski lives in Burien, King County, Washington.

2.2 Defendant Dollar Tree Stores, Inc., was and is a corporation doing business in King County, Washington, organized and existing under the laws of the State of Virginia.

2.3 Defendant Dollar Tree Stores, Inc., operated the retail sales establishment Dollar Tree at 250 SW 152nd St., Burien, Washington.

2.4 SBI Burien, LLC, is the property owner of the premises where Barbara Tomaszewski fell on October 19, 2022, in Burien, King County, Washington.

2.5 SBI Burien, LLC, is a Washington Limited Liability Corporation with its principal office located in Seattle, Washington.

III. FACTS

3.1 Plaintiff repeats and realleges the allegations of paragraph 1.1 through 2.5 as if set forth fully herein.

3.2 On October 19, 2022, the Defendant Dollar Tree Store, Inc., store at 250 SW 152nd St., Burien, Washington, was open for business.

3.3 Dollar Tree Stores, Inc., is the operator of discount variety stores across North America.

3.4 Defendant invited the members of the public to come into its store so it could sell its discount variety merchandise to the public.

3.3 Defendant Dollar Tree Stores, Inc., was in sole control of the store and specifically the area of the store's parking lot where Barbara Tomaszewski tripped and fell.

3.3A Defendant Dollar Tree Stores, Inc., and Defendant SBI Burien, LLC, were in joint control of the parking lot designated under the lease for use by the customers, vendors and employees of the Dollar Tree store.

3.4 Defendants were jointly responsible for maintenance of the Dollar Tree customer parking lot where Barbara Tomaszewski fell.

3.5 Defendant Dollar Tree Stores, Inc., and SBI Burien, LLC, knew or were reasonably expected to know of the hazardous pothole in the Dollar Tree store customer parking lot.

1 3.6 Despite that fact, the hazardous pothole was allowed to remain as a danger
2 to the public.

3 3.7 At the time of her fall on the premises, Barbara Tomaszewski was an
4 invitee of Defendant Dollar Tree retail store.

5 3.8 Defendants were aware that other customers had tripped in the same
6 pothole in its customer parking lot before Barbara Tomaszewski fell on 10/19/2022.

7 3.9 It was foreseeable for customers of Defendant Dollar Tree's store to use
8 the provided customer parking lot.
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10 3.10 The below photo is a true and accurate photo of the pothole in Defendant
11 Dollar Tree's customer parking lot:
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3.11 The above pothole was in an area where customers could reasonably be expected to walk.

3.12 Defendants knew, or reasonably should have known, the pothole created a tripping hazard to its customers and was a dangerous condition.

3.13 Defendants took inadequate steps to inspect the customer parking lot for tripping hazards and dangerous conditions.

1 3.14 Defendants did not try to warn its invitees of the tripping hazard presented
2 by the pothole existing in the customer parking lot.

3 3.15 Plaintiff was not comparatively at fault.

4 3.16 There is no other entity, within the meaning of RCW 4.22.070, whose
5 fault caused or contributed to Barbara Tomaszewski's personal injuries and damages
6 other than Defendants.

7 3.17 Using the provided customer parking lot and entering defendant Dollar
8 Tree's store via the parking lot is an inherent mode of operation of defendant's business.
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10 3.18 Defendants failed to exercise ordinary care to discover reasonably
11 foreseeable tripping hazards, such as the pothole in the provided customer parking lot.
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13 3.19 The pothole in the parking lot presented an unreasonable risk of harm to
14 defendants' invitees.
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16 3.20 Because of tripping and falling, plaintiff suffered severe, permanent, and
17 disabling injuries causing her to have to obtain medical care, including surgery.
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19 **IV. DAMAGES AND PROXIMATE CAUSE**

20 4.1 Plaintiff repeats and realleges the allegations in paragraph 1.1 through 3.20
21 as if fully set forth herein.
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23 4.2 As a direct and proximate result of defendants' negligence, plaintiff
24 Barbara Tomaszewski has suffered pain, mental and physical anguish, and physical
25 disabilities, to her person in amounts to be established and proven at time of trial.
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4.3 Barbara Tomaszewski, as a further direct and proximate result of defendants' negligence, has suffered significant monetary losses resulting from the impairment of her earning capacity and her inability to carry out normal day-to-day work, family, and recreational activities she enjoyed before tripping and falling on defendant SBI Burien, LLC's premises.

4.4 As a direct and proximate result of defendants' negligence, the plaintiff has expended and will continue to expend significant money for medical expenses to regain her health and normal physical condition that existed before the incident, the exact extent of which is unknown, but will be further reestablished at the time of trial.

4.5 Plaintiffs, as further direct and proximate result of all defendants' negligence, have suffered other pecuniary losses and property damage in amounts unknown but to be proven and established at the time of trial.

4.6 Plaintiff Barbara Tomaszewski, as further direct and proximate result of defendants' negligence, has suffered general damages, including but not limited to, pain and suffering, emotional distress and discomfort, loss of enjoyment of life, in amounts unknown, but to be proven and established at the time of trial.

V. PRAYER FOR RELIEF

WHEREFORE, the plaintiff prays for judgment against the defendants, jointly and severally, for the following damages:

1 5.1 For an award of damages compensating plaintiff Barbara Tomaszewski for
2 physical injuries in an amount to be proven at trial.

3 5.2 For an award of damages compensating plaintiffs for past and future
4 medical and out-of-pocket expenses, in an amount to be proven at trial.
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6 5.3 For an award of damages compensating plaintiff Barbara Tomaszewski for
7 past and future pain and suffering in an amount to be proven at trial.

8 5.4 For an award of damages compensating plaintiff for past and future mental
9 and emotional distress in an amount to be proven at trial.
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11 5.5 For an award of damages compensating Barbara Tomaszewski for
12 diminished earning capacity in an amount to be proven at trial.
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14 5.6 For an award of prejudgment interest on all medical and out-of-pocket
15 expenses directly and proximately caused by the negligence herein in an amount to be
16 proven at trial.

17 5.7 For an award of damages compensating plaintiffs for her costs and
18 disbursements herein in an amount to be proven at trial; and
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